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**Board Meeting – December 16, 2013**

**21<sup>st</sup> Floor – Conference Room 1**

**Present Board Members:**

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Jeffrey Dougan, Massachusetts Office on Disability Designee (JD)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Mark Trivett, Member (MT)
- Carol Steinberg, Member (CS)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

**Members Not Present:**

- Andrew Bedar, Member (AB)
- Diane McLeod, Vice Chair (DM)

- Meeting began at 9:45 a.m. due to lack of quorum

1) **Discussion:** Grafton Town House, One Grafton Common, Grafton (V10-081)

- TH - EXHIBIT – letter from Grafton Town Administrator Timothy McInerney, dated December 13, 2013
- previous order from the Board was to close the portions of the building that are not accessible, based on lack of access provided
  - required to post the building within 10 days of receipt
  - looking to post the building tomorrow to close the inaccessible areas of the building
  - commitment to putting an elevator in the building
  - although previously proposed a LULA, elevator was presented to the Town and voted down

- now proposing an elevator with Community Preservation Act (CPA) funding
- July 15, 2015 for elevator

*JD - allow until July 1, 2015 for the installation of the elevator to the basement and second and third floors*

*MT - second –*

*CS - is the ramp part of this motion, since they may not need until 2015 for the ramp*

*JD - access provided all floors by July 2015, but need time to raise funds and propose interior ramp at the basement, and programmatic changes to the second and third floors during elevator construction*  
*- carries (July 1, 2015 for elevator)*

*JD - ramp to basement level and the accessible parking space, as proposed, be completed February 1, 2014*

*CS - second – carries*

**TH** - need written policy about accommodation and plans from the architect as soon as they are ready

*JD - within 30 days of receipt of decision the Board shall receive a copy of the programmatic policy for the second and third floors*

*CS - second – carries*

*CS - plans for the elevator installation by February 1, 2014*

*RG - second – carries*

*CS - require submittal of status reports regarding fundraising beginning February 1, 2014 and every 6 months thereafter*

*JD - second – carries*

*CS - rescind the prior motion regarding the issuance of a stop work order*

*RG - second – carries*

## 2) Incoming Discussion: Conte School, 24 Church St., North Adams (V13-273)

**TH** - new submittal from Petitioner (EXHIBIT)  
 - previously issued Notice of Action and Amended Notice of Action  
 - continued the discussion regarding the door openings in concrete walls  
 - 30 doors in question  
 - all will have lever hardware  
 - opinion of local inspector that the dimensions would not impede access into the classroom

*CS - grant the variance for 26.2 for the 30 doors in question*

*MT - second –*

*JD - did Commission or ILC weigh in*

*TH - no but they have seen all the decisions*

*- carries*

TH - denied 26.4 for doorways into stairwells  
- asking to reconsider the vote on that decision

CS - originally denied because people can't get into the stairway  
- where are the areas of rescue assistance?

*JD - uphold previous decision of the Board  
- no second – motion fails*

*MT - rescind previous and grant variance requested*

*RG - second – MT and RG in favor; JD and CS opposed; WW in favor, motion carries*

3) Discussion: Executive Session motion

*RG - motion to go into Executive Session to discuss pending litigation*

*CS - second – carries*

Deirdre Hosler, Deputy General Counsel for Department of Public Safety (DH)

4) Discussion: Return from executive Session

*RG - end executive session and go back to regular session*

*MT - second - carries*

5) Discussion: 11 North Restaurant, 11 North St., Edgartown (V12-206)

TH - EXHIBIT – submittal from owner's representative to allow the building to open for business  
- they have been closed since November 1, 2013, paying rent \$1400/month  
- ordered to go back to the Town to ask for incline lift to land on Town sidewalk

*CS - deny the reconsideration of the previous motion of the Board*

*MT - second – carries*

*CS - schedule a hearing at which the Town will be subpoenaed to appear to explain why the incline lift is not allowed to be placed on the sidewalk*

*JD - second – carries*

*CS - require that subpoenas be sent to each selectperson and the town manager to appear at the scheduled hearing*

*JD - second –*

*WW - need a representative from the Town*

*- MT and CS in favor, JD and RG opposed; WW opposed, motion fails*

*CS - require subpoenas be sent to the Town Manager and a representative of the Board of Selectman, the Chair*

*MT - second – motion carries*

6) Incoming Discussion: Allele Building, 148-152 Dorchester Ave., South Boston (V13-297)

- TH - EXHIBIT – more information submitted by the Petitioner
- incline lift proposed
  - Group 1 units at the other side of the building
  - building is landlocked
  - building was designed to fit within the lot lines of the property
  - still proposing to use the incline lift for the stairs in between the two side of the building

*CS - grant as proposed*

*MT - second – carries with JD opposed*

7) Discussion: Exchange Hall, 2 School St., Acton (V11-210)

- TH - EXHIBIT – letter from building owner
- seeking a 90 day stay of the decision of the Board
  - in 2011 the final decision of the Board was to deny the lack of access to the stage
  - every other decision was amended and the clock was not restarted
  - accepted the posting of the signage as compliance per the most recent decision of the Board
  - trying to argue with Mass. Historic to allow them to come back before the Board
  - decision was final in 2011

CS - not understanding why he is asking for more time

TH - he wants to be able to use the stage

- gave us an affidavit stating that the stage will be employees only

TH - yes, but he is seeking to stay the decision and have the discussion with Mass Historic

*JD - not reopen, motion stands as proposed*

*MT - second – carries*

8) Discussion: Elements for Women, 100 Washington St., Canton

- TH - EXHIBIT – letter from owner
- sauna purchased to fit into an existing room
  - seeking to open and operate under a temporary certificate of occupancy
  - they will be submitting a variance for the inaccessible sauna
  - Ed Walsh, Building Commissioner for Canton, was contacted by the company stating that the saunas are not required to comply; but spoke with company and they do have accessible saunas, but the accessible sauna will not fit into the existing space
  - seeking to open as soon as possible, and they are losing business by not being open

CS - allow issuance of temporary CO on the condition that variance is received by January 3, 2013  
MT - second – carries

TH - they have already paid for the unit  
- and would have to pay more for the accessible unit  
- seeking variance

- **Diane McLeod, Vice Chair (DM) – now present -**

9) Incoming Discussion: Mixed Use Building, 22-24 Main St., North Andover (V13-309)

TH - EXHIBIT – follow-up material from new owner  
- three-family and two commercial spaces at first and second floors; converting back to three apartments  
- removed the exterior ramp on the building  
- we don't have jurisdiction over this since it is an existing building  
- provided a lot of written documentation regarding the conversion back to apartments  
- first floor already converted back to apartment; have to evict second floor tenant before they can convert back to an apartment

MT - no variance is required due to conversion back to apartment building; confirmation of second floor apartment being built required

CS - second – carries

10) Incoming: Longfellow Hall, 13 Appian Way, Cambridge (Harvard) (V13-323)

TH - EXHIBIT – variance application  
- 5 story building, academic (classrooms, office space and meeting rooms)  
- spending over 30%  
- seeking multiple variances  
- wall side compliant handrails proposed at all existing stairs, noncompliant interior handrails

MT - grant as proposed for interior stairs, on condition of wall side compliant handrails installed at all stairs

CS - second – carries

TH - slope of 8.5% ramp at two interior ramps at the north and south entrances  
- Commission asked to have one of the entrances be fitted out with a platform lift  
- they are interior ramps

JD - grant as proposed

MT - second – carries with CS abstaining

TH - seeking variance for 36" between the handrails, since it is adjacent to the existing stairs  
JD - how long is it?

WW - 17 feet long

CS - *grant the variance for the width*

MT - *second – carries*

TH - proposing for the exterior stairs to leave the handrails as they exist

DM - *grant as proposed*

JD - *second – carries*

TH - they are proposing to make them exit-only

- but there is no “exit-only” and exempted, if they are emergency egress only then exempted; guessing that they are probably used as exits

MT - require a variance for exit only

MT - *grant variance for the lack of access at the exit only doors*

DM - *second – on the condition that the Radcliffe Yard has an accessible route to it*

CS - *signage?*

- *carries*

CS - *signage at the inaccessible entrances directing to accessible entrance*

DM - *second – carries*

### **WW not present, DM as Chair**

#### **11) Incoming Discussion: Sonoma Square, 2 Narrows Road, Westminster (V13-240)**

TH - EXHIBIT - submittal from Petitioners  
- second floor office renovation  
- jurisdiction is 3.3.1a  
- pressed the building owner hard on jurisdictional analysis  
- building inspector was requiring elevator  
- spending \$40,000 to renovate the second floor  
- doors and door hardware partitions will comply

RG - *variance not required based on jurisdiction; but work performed required to comply*

MT - *second – carries*

### **WW now present, acting as Chair**

12) Incoming Discussion: Multi-family building, 585 East 7<sup>th</sup> Street, South Boston (V13-311)

- TH - EXHIBIT – letter from architect  
- previously denied the variance  
- now proposing to install the vertical wheelchair lift

*CS - allow the installation of the proposed lift*

*DM - second - carries*

13) Incoming: New 4 Family, 269 Emerson St., South Boston (V13-321)

- TH - EXHIBIT – variance application  
- garage at grade, two units above on Floor 1 will be flats; townhouses on floors 3 and 4  
- seeking to use a vertical wheelchair lift to serve the garage at the first floor and access to the two Group 1 units at the first floor

*CS - grant the installation of the vertical wheelchair lift, on the condition constructed as stated*

*RG - second – carries*

14) Incoming Discussion: The Batch Yard, 1 & 2 Bowdoin St. & 25 Charlton St., Everett (V13-132)

- TH - in June sent notice that the application was incomplete  
- have not heard back, need to just deny the variance

*JD - deny the request*

*MT - second – carries*

15) Incoming Discussion: Lodging House, 12 Park Avenue, Hull (V12-082)

- TH - EXHIBIT –  
- Bill Shine of Independence Associates went to the building  
- had originally proposed interior ramp, but during construction found head height issued and moved the ramp to the exterior  
- need to order site visit to review the building and the order of the Board

*JD - site visit to review project*

*CS - second – carries*

16) Incoming: Longfellow Pedestrian Bridge to Charles Circle, Boston (V13-318)

- TH - there will be some areas of the ramp that will be curved

*DM - grant as proposed*

*MT - second – carries*

TH - at the MGH side of the bridge historic steps from Longfellow Bridge will connect to the pedestrian bridge at each side  
- used not only for pedestrians but for lateral load structural support  
- seeking a variance for the lack of access at those two stairs

CS - distance from stairs to accessible route

TH - grey route (colored map, part of application), is the old pedestrian bridge  
- the new route is dark brown

- what is that distance difference?

TH - unsure, been reviewed by everyone

*MT - grant*

*DM - second – carries with CS opposed*

17) Discussion: Southwick Florist, 636 College Highway, Southwick (V13-163 and C09-077)

TH - EXHIBIT – new submittal of photographs and policy  
- submittal from Mr. Fox regarding photographs that have been added to the existing stair system  
- also submitted policy; accessible sales counter within accessible greenhouse

*MT - site visit in the spring to see how the policy works*

*RG - second – carries*

*CS - accept the policy and grant the variance to 29.2.3*

*JD - second – carries*

18) Incoming: Village Inn, 17 Main St., Egremont (V13-317)

TH - EXHIBIT – variance application  
- 90% of the work done, when more funding raised they can do the rest of the work

*DM - hearing*

*JD - second - carries*

19) Incoming: Arrowhead Museum, 70 Holmes Rd., Pittsfield (V13-316)

TH - EXHIBIT – variance application  
- \$100,000 porch rebuilding, house is valued at \$562,000  
- jurisdiction is entrance and toilet room requirements (3.3.1b)  
- need more information regarding proposed plans

*JD - continue and provide actual architectural drawings, confirmation of an accessible bathroom,*

*DM - second – carries*



**RG not present**

20) Incoming: Pool house, 9R Captain Brown's Lane, Acton (V13-320)

- TH     - EXHIBIT – variance application  
          - spending over 30%  
          - seeking variance for picnic area and route to the kiddie pool, seeking 10 years  
          - the commission supports the variance application

*CS     - allow one year time variance (December 31, 2014) for the pool lift for the accessible picnic table (19.2.1 and 19.6.2)*

*JD     - second – carries*

CS     - why 10 years?

TH     - serves a condo development

*CS     - grant 10 year time variance to December 21, 2023 for the kiddie pool*

*- change to allow 5 year time variance to December 31, 2018 for the kiddie pool*

*DM     - second – carries*

TH     - gate issue

*CS     - allow the variance for accessible route 20.2, on the condition that van accessible parking space provided next to the pool*

*JD     - second – carries*

MT     - 780 requires 54" to prevent unauthorized entrance

*JD     - grant variance for latch at pool gate*

*MT     - second – carries*

21) Incoming: Woburn Housing Authority, Warren Ave., Woburn (V13-322)

- TH     - EXHIBIT – variance application  
          - constructed in 1963  
          - site changes are measured in stories  
          - spending \$1.9 million, over 30%  
          - kitchen, bath replacement project  
          - and all of the flooring in every until is being redone  
          - required to provided 2 Group 2A units  
          - proposing to provide in another portfolio project and not provide them in this project  
          - the elderly development contains 40 units, but do to site topography, compliance would not be feasible  
          - will provide at Campbell Street apartment building; 1 mile from Warren Avenue

- Campbell Street is 100 elderly units with apartment building in elevators

*DM - grant as proposed*

*MT - second – MT and DM in favor, JD and CS opposed; WW in favor, motion carries*

22) Incoming: Housing project, 516-530 Columbia Rd. and 35 Bird St., Dorchester (V13-333)

TH - EXHIBIT – variance application  
- seeking to waive two-week waiting period

*DM - waive 2-week waiting period*

*JD - second- carries*

TH - level changes at Building A and B, and Group 1 dwelling units in Building C  
- page 3 of the exhibit  
- chosen to consolidate all accessible units within Building A and B  
- A and B have the most amenities, Building C is townhouses  
- providing flat of similar amenities  
- providing 5 Group 2A units; and in an existing building providing 18 Group 1 Units  
- asking for Building C to be exempt  
- grade change is the issue at the site

*JD - grant variance for distribution*

*DM - second –carries*

TH - some level changes at the entrances to Buildings A and B, but there are accessible entrances  
- two entrances (one in B and one in A) that will not be accessible, but are limited to service and bicycles

*JD - grant as proposed*

*DM - second –*

*CS - signage added*

*JD - yes remind them of signage obligations  
- carries*

**RG now present; CS not present**

23) Advisory Opinion: Sledding Hill, Fenway Park, Boston

TH - submittal of diagram  
- email from Scott Ricker asking if a complaint will be filed regarding this matter  
- emailed Mr. Ricker back and stated that it was believed that it was an amusement device, and not required to be made accessible

*JD - no jurisdiction under 521 CMR for access to the structure, other than section 27*

*DM - second – carries*

**CS now present**

24) Advisory Opinion: John Kelly, Building Commissioner in Worcester

- TH - bus stop shelters adjacent to City Hall, regarding access to the bus stop shelter  
- argument is that there is a 30x48” space under the canopy, but Ricker is complaining no accessible seating; perhaps looking for cutout of the bench?  
- but nothing currently specific under 521 CMR currently

*DM - nothing specific in 521 CMR to bus shelters but there does appear to be a compliant 30x48” space at the shelter*

*RG - second - carries*

25) Advisory Opinion: Cliff Boehmer and Michael McQue of Davis Square Architects

- TH - entry doors to Group 2 units, should not have keys  
- 26.11.1 states keys are not allowed  
- need to have touch pads or keypads for locking devices

*DM - must comply*

*RG - second - carries*

**- Lunch Break -**

26) Hearing: YMCA, 1 Sewall Street, Salem (V13-198)

- WW - called to order at 1 p.m.  
- introduce the Board

Jason Silva, Salem YMCA Executive Director (JS)

Michael Fields, Winter Street Architects (MF)

- WW - both sworn in  
- EXHIBIT 1, AAB1-60

- MF - Ames Hall Theater Salem, part of the original 1898 YMCA building  
- reincorporate balcony at the theater, and were granted a variance for that while doing a full review of the building in accordance with 521 CMR  
- small pool at back of the facility, several steps down from surrounding floor  
- proposing to decommission this pool and make a floor level to the surrounding spaces to create more workout space

- DM - AAB14
- MF - seeking time variance to allow the use of the pool in the interim of the floor being built, will be level
- CS - another pool
- MF - yes, there is a large Olympic pool that is accessible  
- access from locker rooms to the pool, and there is a lift in the pool
- CS - what is the smaller pool?
- JS - used primarily for physical therapy and smaller kids swimming lessons  
- can use the large pool in lieu of access into the pool in question
- CS - timeframe?
- JS - in the 5 year master plan right now, but hopeful that it will be completed sooner than that  
- need to still raise the money
- JS - can very easily move the class to the larger pool if a child or a parent with a disability was participating in a class
- CS - how much will this particular project cost
- JS - approximately \$250,000.00
- WW - how many other things are included in the time variance request
- MF - copy of proposal with time variance vs. outright variance
- WW - accept as EXHIBIT 2
- MF - some of the areas where there are multiple inaccessible levels  
- AAB18, shows the view from the lobby with an incline platform lift up to the basketball court, down a half a level to the kids' locker rooms, and down to the basement level  
- lift is now out of service, and therefore the lift would need to be replaced completely because of lack of available parts  
- proposing a LULA to connect the four levels, within the space of the stairwell
- MF - kids can use adult locker rooms if necessary and there is an accessible family locker room
- JS - there are 3 off-site locations at city public schools that are fully accessible, and child could be accommodated at one of the other locations
- MF - basketball court is also not accessible; can use Marblehead YMCA as alternate accessible court
- JS - AAB18, walk into the lobby area (Picture P), stairs up bring you to basketball court, stairs down bring you to (picture Q), one more level down brings you to Picture A (AAB16)

MF - down a half level to kids locker room below basketball court

WW - handrail extensions?

MF - 12 inch extension not located at the bottom of the stairs to the basement  
- want to include that in the larger scope of the project

MF - two stairs, center rod-iron railing  
- proposing to add railings to each side of the stairs

JD - seeking five years for all of these items?

MF - yes

CS - cost for all of the noted time variances?

MF - AAB11-13

MF - cost of LULA, about \$80,000.00

CS - need capital funding?

JS - we are the smallest of the North Shore YMCAs

- operate at a loss every year

- large group of those served received some sort of financial assistance

CS - shows to make money that way?

JS - makes a bit, but more mission based

*JD - grant a five year time variance to December 31, 2018 for the bulleted items seeking time variance, to submit written accommodation policy for anything that will not be accessible during this timeframe within 60 days receipt of the decision; status reports every 6 months, starting June 1, 2014*

*DM - second*

*CS - policy posted? JS – could include in parent handbook*

*- carries*

MF - first item seeking relief is for the shallow stage in the basement (AAB16, picture E)

- 14 inch high platform at the end of the room

- depth of the room would be taken up by a ramp to the stage

- any activity at the stage can be held at the main floor in front of the stage

- about 7-8 feet deep and 15 feet across

JD - can it be removed?

MF - may be able to be removed, unsure of what is under the existing stage

MT - what is the stage being used for?

JS - afterschool space  
- not sure of what the items on the stage are, but probably used by the after-school program

JS - sometimes the kids are separated into groups, so some kids may use stage during that time

CS - these rooms are not currently accessible anyways?  
MF - yes

AB - like the idea of removing the stage

*CS - deny, and require removal or present plan for alternate accessible stage within afterschool space; submitted by first status report June 1, 2014*

*AB - second – carries*

KS - can always ask for more time if need be

MF - historic entrance to the building leads to grand marble staircase to theater at second floor  
- 14 feet up from the street  
- unable to install lift since the adjacent two stories are owned by the Salem Housing Authority  
- proposing the use of the main YMCA entrance at Sewall Street, which is adjacent to the parking, with signage directing people entering the theater entrance to the accessible entrance along Sewall Street

JS - will also be providing staff during performances, directing people to the accessible Sewall St. entrance

JD - distance between the two entrances?  
MF - about 100 feet

MT - two means of emergency egress and both accessible emergency egress?  
MF - yes

*CS - grant as proposed for the Essex Street entrance, for as long as the YMCA does not have control of the adjacent property (now occupied by the Salem Housing Authority)*

*DM - second – carries*

MF - daycare entrance is 6 inches above grade, but directly adjacent to sidewalk, but the primary entrance to the YMCA is 15 feet to the side of this entrance in question

WW - photo?  
MF - AAB15, Picture N

MF - entrance to the preschool is within sight of the building

JD - why is there entrance to the preschool separate?  
JS - major reason is because adjacent teen drop-in center in the same area

CS - accessible path of travel to the teen drop-in area  
JS - it is located in the basement currently, but it will be accessible eventually

CS - where will teens be directed for the drop-in area during the 5 years?

CS - *grant the variance for the entrance to the preschool space, in light of the fact that it is easily accessible from the main entrance*

AB - *second – carries*

CS - *by June 1, 2014, submit information about where the teen for the drop-in area will be accommodated*

AB - *second – carries*

MF - existing saunas in the men's and women's locker rooms, that have thresholds within the existing rooms  
- do have an adjacent accessible steam room  
- very small footprint  
- seeking variance for the narrow entrance

MT - self-contained units?

MF - 37 years old, unsure of how they were built

CS - can it be reconfigured?

MF - it would take up a larger footprint?

JS - yes, and no plans to update locker rooms, and it would interrupt the path of travel on each side of the sauna

CS - there is an accessible steam room?

JS - yes, but also 30 years old

DM - *continue for more information to be submitted regarding details of the sauna (size, surrounding areas, cost estimates), submitted within 30 days receipt of the decision*

JD - *second – carries*

MF - door clearances, three doors in question

- AAB17, Picture K

- 4 inches of push side clearance at door that is generally propped open

JS - do use it to control the flow of teens some time, door is there for teen drop-in center where teens may not be members to keep them out of the member only area  
- alarmed door

MF - third door top of the same stair well, no pull side clearance

MF - first door is communicating door from drop-in teen space

JS - only time it is shut, is when teen traffic is higher

DM - *grant the variances requested for the 3 doors in question*

CS - *second – carries*

MF - Zumba level is slightly below the major exercise room

- down 54”

- a ramp would take up a quarter of the room, but believe that the class can be accommodated in other areas as needed

JS - all of group exercise classes happen there, but idea is that once the small pool project is covered, there will be three studio spaces

- right now there are no alternate studio spaces for fitness classes

DM - *grant variance for lack of access to the zumba room, on the condition that policy regarding alternate location for group exercise space, submitted within 60 days receipt of decision of the Board*

JD - *second – carries*

27) Discussion: Cases of the day

CS - use of balcony for church

TH - will be explained during hearing

TH - will be coming with building inspector

- thinking that diner cannot comply

- a lot of land with the diner, can add additional building with accessible seating and toilet rooms, which hasn't been explored

28) Hearing: St. Mary's Church Syrian Orthodox Church, One Industrial Drive, Shrewsbury (V13-164)

WW - call to order at 2:15 p.m.

- introduce the Board

Salah Asfoura, AA Design Construction Supervisor (SA)

Father Maroutha Hanna, St. Mary's Syrian Orthodox Church (MH)

WW - both sworn in

- EXHIBIT 1 – AAB1-53

SA - 4,000 square feet addition to an existing building

- intention was to make the whole building, including the existing building accessible

- the mezzanine idea started as access to the attic area mechanic rooms above

- the choir is a group of people from the church, usually sit in the front of the church, do not use any instruments

- another space for overflow seating located at the mezzanine level



- the whole space can be used in the mezzanine is only (AAB7) limited space due to roof lines
- AAB6, shows highlighted area of space available, less than 300 square feet of space available to use
- to build an elevator for that small section, would be unreasonable, and an excessive cost, would prefer to just not use if that was the case
- proposed to be used for overflow seating

MH - will only be used a couple of times of year for large services  
 - choir sits at the front of the church near the altar

CS - was concerned about the choir in the mezzanine level, but if used for overflow, not as concerned

*CS - grant the variance for the use of the mezzanine space, on the condition that it is used as overflow space as proposed*

*DM - second – carries*

29) Incoming: Littleton Pub and Sub Shop, 486 King Street, Littleton (V13-324)

TH - EXHIBIT – variance application  
 - building inspector refuses to sign-off for liquor license  
 - been operating for one year without variances  
 - only asking for variance for sloped landing and walkway  
 - plans indicate problems in the toilet room  
 - broke through wall and set of stairs between the two spaces  
 - no access to the service counter at the sub shop

*JD -deny and conduct staff site visit as soon as possible*

*RG - second –carries*

*MT - support withholding of liquor license until the matter is resolved before the Board*

*DM - second - carries*

30) Advisory Opinion: Commonwealth Ave. Bridge Replacement Project, Boston

TH - flush side walk corner at Comm. Ave. and Essex St., proposing to depress corner level with the street and straight through bridge joint  
 - also railroad crossing issue

*AB - accept design as shown, no variance required*

*MT - second - carries*

31) Incoming: Match Charter School, 215 Forrest Hills St., Jamaica Plain (V13-257)

TH - EXHIBIT – variance application

*MT - accept the documents submitted, case closed*

*JD - second – carries*

32) Incoming Discussion: 369 Burncoat St., Worcester (V13-304)

- TH - EXHIBIT – variance application
- spending over 30%
  - temporary CO was issued
  - sloped landing will be less than 1:12 but more than 2%
  - need auto-opener and photos of toilet room

*CS - grant the variance, on the condition one handrail and auto-opener*

*DM - second – carries*

*CS - photographic confirmation of accessible toilet room, submit within 60 days receipt of decision*

*DM - second – carries*

33) Incoming Discussion: Ingelisia, 1272 Blue Hill Avenue, Mattapan (V12-112)

- TH - submittal of letter from pastor
- when the case originally came to us, lower level was to be used as children's space
  - came up with a plan to install a three stop vertical wheelchair lift at the back of the building to serve all floors of the building
  - granted a variance to the front entrance, on the condition that the lift was installed at the back of the building as proposed
  - on December 10, 2013 (EXHIBIT) received letter from Pastor Jules, decided to eliminate the use of the basement as part of the church, since the cost of the lift would be too costly

*DM - hearing*

*MT - second – carries*

34) Incoming Discussion: Summit House, Joseph Skinner State Park, Hadley (V11-081)

- TH - EXHIBIT – amendment request
- granted two variances in 2011 for door clearances and accessible drinking fountains
  - David Holmes, State Building Inspector, forwarded e-mail from Architect that admits that they are well over 30%
  - need a hearing, with a subpoena to the architectural firm for them to appear

*CS - schedule a hearing and subpoena architect to appear*

*AB - second – carries*

35) Incoming Discussion: 6 Family Building, 615 East 6<sup>th</sup> St., South Boston (V12-264)

- TH - Notice of Action to deny issued on October 8<sup>th</sup>

- Group 1 units required access from the front and rear, they were only proposing vertical wheelchair lift at the back of the building
- building was basically done in October
- now are proposing a ramp to the rear entrance (EXHIBIT) and have added space at the ground floor units and are now proposing to call them townhouses
- 6 unit building, townhouses as defined in the building are two-story units separated by a firewall
- asking for a ramp at the back and suggesting that they do not have to comply if they are townhouses

*CS - schedule an expedited hearing, and hold occupancy permit for the building until it is heard*  
*DM - second – carries*

37) Discussion: Isabella Stewart Gardner Museum, Monks Garden, 280 The Fenway, Boston (V11-147; V12-189; and C12-301)

TH - follow-up information that was requested was submitted (EXHIBIT)  
 - two paths in the submittal are highlighted in pink  
 - still seeking variances for those areas of the walkway

*CS - grant the two remaining areas*  
*DM - second – carries with DM abstaining*

### **No more DM**

37) Advisory Opinion: Hearing Impaired Units (2% requirement)

TH - new building is constructed and the units are for sale, no Group 2A units are required, still required to provide Group 1, does the sale exempt them from the requirements for hearing impaired rooms (521 CMR 9.7)

*JD - 2% required regardless of type of units provided*  
*MT - second – carries*

38) Hearing: Nite Owl Diner, 1680 Pleasant St., Fall River (V13-241)

WW - called to order at 3 p.m.  
 - introduce the Board

Joseph Bizko, City of Fall River Inspector of Buildings (JB)

Glenn Hathaway, City of Fall River Building Inspector (GH)

Joseph Nasrallah, Owner (JN)

John Long, Attorney for the Owner (JL)

WW - all but JL sworn in

- EXHIBIT 1 – AAB1-23

- JL - AAB8 and AAB9, pictures of the diner  
- 1952, and only 14 stools
- JB - been close for 4 years, 440 square feet at the interior  
- if it was closed for under two years, probably wouldn't need to be before the Board  
- it's under 1200 square feet, in support of the variance being requested  
- estimates for \$12,000 to put the ramp on the dining car, building is only worth \$12,000
- JN - last time it was open was in 2009 by my son  
- problem was that he had to close the restaurant due to need for heart surgery in August of 2010  
- also operated a store at the same time by himself  
- variety store was sold in 2010  
- want to reopen the diner  
- will have to spend about \$4,200 to start up the business again, \$3,000 for work on equipment and \$1,200 to clean it up (AAB7)
- JL - AAB22, the only way to make it accessible would be to bring a ramp at the street side up along the back  
- this would detract from the historic nature of the building  
- won't have a lot of turnover, only seats 18 people  
- would have to spend more than what the building is worth to create access into the building  
- variance supported by the Mayor, the Economic Development Director and the Building Department
- WW - \$10,000 permit for work
- JB - no permits pulled or issued for this building
- TH - spending \$6-7,000 stated in July 2, 2013 phone call; more likely \$10,000, as stated by owner  
- need to find compliant solution and tests for access
- JB - Property card for building, \$14,700.00, value of building
- WW - 30% of \$14,700.00 is \$4,410.00
- TH - established jurisdiction based on 30%, based on what they were told
- JL - couldn't keep it open as a family, and wouldn't be back here if the business was able to be kept open during health issues  
- 22 feet of ramp would be required  
- JN has got rough estimates
- WW - if figure is accurate than jurisdiction under 3.3.2 since not spending

- JD - what about disability commission being notified of the variance application?
- JB - do have a disability commission that is very active, but have not heard from them about this project
- MT - in many cases, owners and architects concede that the threshold would be tripped based on early statements of spending
- JB - first discussion was with Tom about requiring compliance
- TH - another building on the property, found the building value as \$14,700.00  
 - then had discussions with the owner, who stated that he was proposing to spend \$10,000.00  
 - not always based on permit values  
 - never really got correct application  
 - no tests or cost estimates for creating access  
 - \$3,000 for proposed work
- TH - diner cars all over the commonwealth have been made accessible  
 - however can only enforce jurisdiction based on the reported spending
- CS - have you spent any money on the diner car yet?
- JN - \$3,000.00 for the company to come in, unless something needs to be fixed  
 - \$1,200.00 for cost of cleaning and getting the car ready to open
- CS - very close to 30% trigger?  
 - estimate is just that, an estimate
- JB - 4 risers
- CS - bathroom?
- TH - variance from plumbing board required?
- WW - not for existing restaurant since only 18 seats
- CS - need a written cost expense
- TH - need to talk to Plumbing Board about the requirement for bathrooms
- CS - *Continue to require the Petitioners to produce true estimates for spending proposed; and cost of ramps; and affidavit regarding proposed spending; plans and cost estimates for ramp; by February 1, 2014*
- AB - *second - carries*

39) Incoming Discussion: Rusty Anchor, 1451 North St., Pittsfield (V13-285)

- TH - EXHIBIT - new submittal from Petitioners  
 - hearing has been scheduled

- owner contacted the Board stating that his insurance company requires a temporary certificate of occupancy
- currently not open

CS - *continue to January 6, 2014, to discuss the matter of the issuance of temporary CO until*

TH - main entrance is not accessible, alternate ramp to entrance (bad slope)

CS - *withdraw motion*

CS - *allow the issuance of a temporary certificate of occupancy and discuss matter at scheduled hearing*

- *no second, motion fails*

JD - *continue discussion to January 6, 2014 to allow more information to be collected regarding the issuance of the temporary*

AB - *second - carries*

#### 40) Discussion: Westfield City Hall, 59 Court St., Westfield (V13-060)

TH - EXHIBIT – amendment request for 41.2.2.

- mounting height of the signs, 60” is required, they propose 62 ¼”, because of the wainscoting throughout the building

- examples of how compliance would alter the sign location

- in areas where there is not wainscoting, proposing to maintain the signs at the consistent 62 ¼” height

MT - *grant as proposed*

CS - *second - carries*

#### 41) Discussion: City Hall, 93 Washington St., Salem (V02-125)

TH - before us last summer for scaffolding, with alternate route

- over 30%, and now seeking new variances, seeking approval of route for an additional 180 days because of window replacements

JD - *grant*

AB - *second – carries*

TH - 7.2.2 historic information window is staffed by the switchboard operator and counter at 40 inches

- lower 1838 original information window would create loss of the counter

AB - *grant as proposed*

MT - *second – carries*

TH - location of one door, original historic door off of the central corridor

- Door 21 is narrower and has a clearance of 29 ½ inches, the door is between Mayor's Office and the Executive Secretary's Office
- just have to go down the hall for accessible route (32 feet, when direct route is 13 feet)

*JD - grant as proposed*

*AB - second – carries*

- TH
- two doors in a series at the hallway
  - exterior door swings in, one swings out
  - historic doors, typically 3' 2" wide
  - interior office doors will be held open and compliant hardware at the leather doors
  - 10 doors in question

*JD - grant as proposed, with policy in place*

*MT - second – carries*

- TH
- front of the building, seeking variance for the single leaf doors, each leaf is below 32" clear; when building is open, doors are open and pocketed

*JD - grant as proposed*

*MT - second – carries*

- TH
- door hardware (26.11.2)
  - lever operators will be added at all 1<sup>st</sup> and 2<sup>nd</sup> floor areas open to the public; but hardware will be at 35", and not between 36"

*JD - grant as proposed*

*RG - second - carries*

- TH
- handrails at all stairs in the building
  - proposing compliant wall side handrails at all stairs

*MT - grant as proposed*

*AB - second – carries with JD opposed*

- TH
- stair nosings, scotia molding is not completely compliant

*CS - grant as proposed*

*MT - second – carries with JD opposed*

#### 42) Advisory Opinion: 184 West Main St., Norton

- TH
- asking the Board to intervene to allow the use of the building's second floor under a TCO to be issued tomorrow

- Comcast at both floors, elevator will be done within 60 days
- they are accommodating at the first floor while the elevator is under construction

*JD - allow the issuance of a temporary CO on the condition that the accommodation office provided at the first floor as proposed, to expire within 60 days of the issuance of the order of the Board*

*MT - second – carries*

43) Advisory Opinion: Woodbridge School, Renovation into condos, 33 High Rd., Newbury

- TH
- converted to three condos, two townhouse units at the basement and first floor and then flat at second floor
  - owner wants the top unit as a penthouse, to be served by a LULA to serve the penthouse unit, the basement level storage and the first floor entrance
  - proposing LULA to be 51x51

*JD - based on information provided, no variance is required*

*MT - second – carries*

44) Discussion: Elizabeth Minnis, Deputy Commissioner from DCAM

- TH
- \$9 million project to the Governor's Office
  - fast track project to begin in January
  - IHCD hired for access review
  - want permit issued by the State Building Inspector prior to the submittal of the access review, which may require variances
  - there will be at least one variance application to be submitted to the Board

*JD - have a variance submitted by January 15, 2014 and allow the issuance of permits for the work to proceed*

*MT - second – carries*

45) Discussion: Minutes and Decision from 12/2/13

*CS - approve the decisions and minutes from December 2, 2013*

*RG - second – carries with JD abstaining*

- End of Meeting -